

Public Law 102-335
102d Congress

An Act

To provide for the management of Federal lands containing the Pacific yew to ensure a sufficient supply of taxol, a cancer-treating drug made from the Pacific yew.

Aug. 7, 1992
[H.R. 3836]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) **SHORT TITLE.**—This Act may be cited as the “Pacific Yew Act”.

Pacific Yew Act.
Forests and forest products.
16 USC 4801 note.

SEC. 2. FINDINGS, PURPOSES, AND DEFINITIONS.

(a) **FINDINGS.**—Congress finds the following:

(1) Over 12,000 women die each year from ovarian cancer and 44,500 women die from breast cancer.

(2) Taxol, a drug made from the Pacific yew (*Taxus brevifolia*), has been successful in treating ovarian cancer in clinical trials and shows promise in the treatment of breast cancer and other types of cancer.

(3) The production of small amounts of taxol currently requires the use of large numbers of Pacific yew.

(4) The Pacific yew is a slow-growing tree species found in the Western United States.

(5) Significant numbers of Pacific yew trees are found in old-growth forests on Federal lands in the Pacific Northwest.

(6) Before the importance of taxol was discovered, the Pacific yew was considered a trash tree and was often burned in slash piles after timber operations.

(7) Remaining Pacific yew resources must be carefully managed in order to ensure a steady supply of taxol for the treatment of cancer, while also providing for the long-term conservation of the species.

(8) Appropriate management guidelines must be implemented promptly in order to prevent any wasting of the Pacific yew in current and future timber sales on Federal lands, while successful and affordable alternative methods of manufacturing taxol are being developed.

(b) **PURPOSES.**—The purposes of this Act are to contribute to the successful treatment of cancer by ensuring that Pacific yew trees located on lands of the National Forest System and on public lands administered by the Bureau of Land Management are managed to—

(1) provide for the efficient collection and utilization of those parts of the Pacific yew that can be used in the manufacture of taxol for the treatment of cancer;

(2) provide for the sale of Pacific yew from such lands for the commercial production and subsequent sale of taxol at a reasonable cost to cancer patients;

16 USC 4801.

(3) ensure the long-term conservation of the Pacific yew;
and

(4) prevent the wasting of Pacific yew resources while successful and affordable alternative methods of manufacturing taxol are being developed.

(c) **SECRETARY CONCERNED DEFINED.**—For purposes of this Act, the term “Secretary concerned” means—

(1) the Secretary of Agriculture, with respect to lands and interests in lands under the jurisdiction of the Forest Service;
and

(2) the Secretary of the Interior, with respect to lands and interests in lands under the jurisdiction of the Bureau of Land Management.

16 USC 4802.

SEC. 3. PACIFIC YEW CONSERVATION AND MANAGEMENT.

(a) **PACIFIC YEW POLICY.**—The Secretary of Agriculture and the Secretary of the Interior shall pursue a conservation and management policy with respect to lands and interests in lands under the jurisdiction of the Forest Service or the Bureau of Land Management, which contain the Pacific yew in order to—

(1) provide for the sustainable harvest of Pacific yew, or Pacific yew parts, in accordance with relevant land and resource management plans for the manufacture of taxol; and

(2) provide for the long-term conservation of the Pacific yew in the wild.

(b) **CONTENT OF POLICY.**—The conservation and management policy required by subsection (a) shall ensure that—

(1) in planning harvests of the Pacific yew, priority be given first to areas in which timber has been cut but Pacific yew trees have not been removed, second to areas in which timber is already sold but remains uncut, third to areas scheduled for timber sale in the near future, and fourth to those other areas where commercial and salvage timber sales are allowed under existing laws;

(2) individual Pacific yew trees are utilized with little or no waste;

(3) to the extent that timber harvesters' health and safety will not be jeopardized, the bark is harvested from Pacific yew trees in timber sale areas before the harvest of other timber resources;

(4) whenever Pacific yew trees are harvested, they are—

(A) cut using methods designed to allow for resprouting from the stump; and

(B) replanted where necessary to maintain the species in the ecosystem; and

(5) timber management and harvest activities are carried out in a manner that will minimize any adverse effects on the survival and regeneration of Pacific yew trees.

(c) **APPLICATION OF POLICY TO TIMBER HARVESTING.**—

(1) **APPLICATION.**—The Secretary concerned shall ensure that timber sales awarded after the date of the enactment of this Act, and timber sales completed before that date but still unharvested on that date, are conducted in accordance with—

(A) the policy expressed in subsection (a); and

(B) the relevant land and resource management plans of the Secretary concerned.

(2) **CONSULTATION UNDER ENDANGERED SPECIES ACT.**—If the Secretary concerned foresees the need to harvest Pacific yew in an area for which an opinion issued under subsection (b)(3)(A) of section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) has concluded that a commercial timber sale is likely to jeopardize the continued existence of an endangered or threatened species or destroy or adversely modify critical habitat identified for the species under that Act, the Secretary concerned shall immediately initiate consultation under that section to determine the effect on endangered and threatened species and critical habitat of harvesting only Pacific yew trees.

(d) **INVENTORY OF PACIFIC YEW.**—Not later than 6 months after the date of the enactment of this Act, each Secretary concerned shall complete the ongoing inventory of Pacific yew on lands under the jurisdiction of the Secretary concerned.

SEC. 4. RESEARCH.

16 USC 4803.

Each Secretary concerned shall encourage and, where appropriate, assist in research regarding—

- (1) the ecology of the Pacific yew;
- (2) the development of alternative methods of procuring taxol, including utilization of other yew parts in addition to bark, the sustainable harvest of yew needles, and the utilization of other yew species; and
- (3) the propagation of Pacific yew and other yew species in agricultural or commercial settings.

SEC. 5. COLLECTION AND SALE OF PACIFIC YEW RESOURCES.

16 USC 4804.

(a) **ENFORCEMENT AND ACCESS.**—The Secretary concerned shall ensure the development, implementation, and enforcement of processes for the collection and sale of Pacific yew resources that will minimize the illegal harvest and sale of such resources. The Secretary shall also ensure that access to Pacific yew resources is allowed in a timely manner such that collection of Pacific yew parts can occur before the taxol properties of such parts are degraded.

(b) **NEGOTIATED SALES.**—

(1) **FOREST SERVICE SALES.**—Notwithstanding section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a), the Secretary of Agriculture may negotiate sales of Pacific yew on lands under the jurisdiction of the Forest Service at not less than appraised value, to parties manufacturing taxol in the United States in accordance with section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) for use in humans.

(2) **BUREAU OF LAND MANAGEMENT SALES.**—Notwithstanding the Materials Act of 1947 (30 U.S.C. 601–604), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and Act of August 28, 1937 (43 U.S.C. 1181a–1181f), the Secretary of the Interior may negotiate sales of Pacific yew on lands under the jurisdiction of the Bureau of Land Management at not less than appraised value, to parties manufacturing taxol in the United States in accordance with section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) for use in humans.

(3) **DISPOSITION OF UNUTILIZED MATERIAL.**—The Secretary concerned shall, to the extent practicable, make material unutilized by purchasers of Pacific yew available to others.

(4) **LIMITS ON OTHER SALES.**—Except as provided in paragraphs (1), (2), and (3), the Secretary concerned shall not sell Pacific yew for commercial use.

(5) **USE OF RECEIPTS.**—The Secretary concerned may use amounts received from the sale of Pacific yew under this section to pay the costs incurred by the Secretary concerned associated with the harvest and sale of Pacific yew.

(c) **RECORD KEEPING.**—The Secretary concerned shall keep accurate records of all sales, bark removal, or other harvest of the Pacific yew. The records shall include the following information:

(1) The date of sale (where applicable) and the date of harvest.

(2) The names of the persons performing the harvest.

(3) The record of authorization for the harvest.

(4) The location and size of the area in which the harvest occurred.

(5) The quantity of Pacific yew harvested, including, to the extent practicable, the number of trees harvested, volume of bark harvested, and weight of bark harvested.

(d) **EFFECT ON PRIOR SALES.**—With respect to Pacific yew harvested before the date of the enactment of this Act on lands under the jurisdiction of the Forest Service or the Bureau of Land Management, the Secretary concerned may permit taxol derived from that Pacific yew to be used for purposes other than research if the Secretary of Health and Human Services certifies to the Secretary concerned that such permission—

(1) will increase patient access to taxol treatment; and

(2) will not result in insufficient supplies of taxol for clinical research.

16 USC 4805.

SEC. 6. RELATION TO OTHER LAWS.

Nothing in this Act shall be interpreted as modifying the provisions of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), or the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), except as explicitly provided in section 3.

16 USC 4806.

SEC. 7. REPORT TO CONGRESS.

Not later than one year after the date of the enactment of this Act (and annually thereafter), each Secretary concerned shall submit to the Committee on Merchant Marine and Fisheries, the Committee on Interior and Insular Affairs, and the Committee on Agriculture of the House of Representatives, and the Committee on Environment and Public Works, the Committee on Energy and Natural Resources, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the following:

(1) A judgment as to whether sufficient amounts of Pacific yew have been harvested, and can continue to be harvested for the next year, to supply necessary amounts of taxol required for medicinal purposes, together with a summary of the information on which the judgment is based.

(2) The results of the Pacific yew inventory required by section 3(d).

16 USC 4807.

SEC. 8. EXPIRATION OF REQUIREMENTS.

The Secretary of Health and Human Services shall determine when quantities of taxol sufficient to satisfy medicinal demands are available from sources other than Pacific yew trees harvested

on Federal lands and notify each Secretary concerned upon making such determination. If the Secretaries concerned concur, they shall jointly notify the relevant congressional committees, as listed in section 7, at which time the requirements of this Act shall expire.

Approved August 7, 1992.

LEGISLATIVE HISTORY—H.R. 3836 (S. 2851):

HOUSE REPORTS: No. 102-552, Pt. 1 (Comm. on Merchant Marine and Fisheries), Pt. 2 (Comm. on Interior and Insular Affairs), and Pt. 3 (Comm. on Agriculture).

SENATE REPORTS: No. 102-323 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 138 (1992):

July 7, considered and passed House.

July 23, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):

Aug. 7, Presidential statement.